

### REMARKS

Claims 1, 2 and 7-41 are pending in the application. Claims 22, 23, 26, 29, 32 and 35 were rejected under 35 U.S.C. §112, first paragraph, as described in paragraphs 3-5 of the Office Action. Claims 1-4, 14-19 and 21 were rejected under 35 U.S.C. §102(e), as described in paragraphs 7-16 of the Office Action. Claims 5-13 and 20 were rejected under 35 U.S.C. §103(a), as described in paragraphs 18-25 of the Office Action. Claims 22-35 were rejected under 35 U.S.C. §103(a), as described in paragraphs 26-33 of the Office Action. Claims 1, 2, 40 and 41 are the only independent claims.

The specification has been amended to place the application in correct idiomatic English.

Attached hereto are replacement formal drawings for Figures 1-17.

It is respectfully submitted that item (170N) in Fig. 17 should be --170N--, as discussed in page 1 of the specification. It is respectfully submitted that the components that are not numbered, "i.e., Fig. 2, the boxes on the right connected to the boxes left," need not be numbered. In particular, as discussed in the specification, for example on page 7, the cited exemplary boxes in Fig. 2 are not separate components. On the contrary, the cited exemplary boxes merely illustrate the information or function of the corresponding components.

In light of the above discussion, it is respectfully requested that the objection to the drawings be withdrawn.

Applicants respectfully traverse the rejection of claims 22, 23, 26, 29, 32 and 35 under 35 U.S.C. § 112, first paragraph for the following reasons.

Paragraph 3 of the Office Action asserts that several "several components of the claim, such as 'data management information', are critical or essential to the practice of the invention, but are not included in the claim(s) is not enabled by the disclosure." Initially, it is unclear what is meant by the phrase "are critical or essential to the practice of the invention, but not included in the claim(s)." More specifically, the cited "data management information" is included in claim 22. Accordingly, it is not clear whether the Examiner is asserting that another unspecified component is critical but not included in the claim.

Nevertheless, it is respectfully submitted that one having ordinary skill in the art would be able understand the scope of the claim and practice the invention without undue experimentation. Accordingly, it is respectfully submitted that claims 22, 23, 26, 29, 32 and 35 comply with 35 U.S.C. § 112, first paragraph.

The remainder of the discussion in paragraphs 3-5 do not address issues within the meaning of 35 U.S.C. § 112, first paragraph. In particular, as paragraphs 3-5 include phrases such as “it is unclear” and “further confusing,” it seems that the Examiner meant to reject the claims under 35 U.S.C. § 112, second paragraph.

Nevertheless, Applicants additionally respectfully submit that claims 22, 23, 26, 29, 32 and 35 are definite within the meaning of 35 U.S.C. § 112, second paragraph for the following reasons.

Paragraph 3 of the Office Action further asserts that it “is unclear whether the data management information is like a header, a pointer or reference, a location address, or a text description or menu option.” Nevertheless, it is respectfully submitted that a breadth of claim should not be confused with indefiniteness within the meaning of 35 U.S.C. § 112, second paragraph.

Claim 22 requires, *inter alia*, that “a predetermined node or said data manager manages data management information on the data separately from the data thereby to allow deletion of only the data management information when said predetermined node deletes the data.”

It is respectfully submitted that claim 22 was written for one having ordinary skill in the art. As discussed in MPEP § 2173.02, definiteness of a claim language must be analyzed not in a vacuum, but in light of: (A) the content of the particular application disclosure; (B) the teachings of the prior art; and (C) the claim interpretation that would be given by one possessing ordinary level of skill in the pertinent or as the time the invention was made.” It is respectfully submitted that every term used in the cited language is not confusing or used in a manner contrary to its ordinary meaning.

For the reasons discussed above, it is respectfully submitted that claims 22, 23, 26, 29, 32 and 35 are enabled within the meaning of 35 U.S.C. § 112, first paragraph and definite within the meaning of 35 U.S.C. § 112, second paragraph.

It is respectfully submitted that claims 1, 2 and 7-41 are patentable over the prior art of record for the following reasons.

Each of independent claims 1, 2, 40 and 41 require, *inter alia*, an access manager operable to manage access to the data of a recording medium apparatus, the access manager being operable to judge whether or not to approve the access from the information of the data manager, kind of access, band state of the network and band state of an interface of the recording medium apparatus, and to secure a transmission band for accessing the data, when the access is approved.

As discussed in paragraph 19 of the Office Action, He does not disclose “that said access manager means is provided with an access state managing function for managing mode of access judgement, band of the network, and band of the interface of said recording medium apparatus.”

As anticipation under 35 U.S.C. § 102 requires that each and every element of the claim be disclosed in a prior art reference, *Akzo N.V. v. U.S. Int’l Trade Commission*, 808 F.2d 1471 (Fed. Cir. 1986), based on the foregoing, it is clear that He does not anticipate claims 1, 2, 40 and 41.

Furthermore, since claims 7-39 are dependent upon claims 1 and 2, respectively, and therefore include all the limitations thereof, it is respectfully submitted that claims 7-39 additionally are not anticipated by He within the meaning of 35 U.S.C. § 102.

Day et al. (Day) fails to teach the shortcomings of He such that a combination of He in view of Day would teach that which is required in independent claims 1, 2, 40 and 41.

As discussed above, the access manager of each of claims 1, 2, 40 and 41 is required to be operable to “judge whether or not to prove the access from the information of said data manager, a kind of access, a **band state of the network** . . . “

It is respectfully submitted that Day fails to teach the above-identified limitation.

Because neither He nor Day teaches an access manager operable to judge a band state of a network, neither reference teaches a manage access to the data of a recording medium apparatus, the access manager being operable to judge whether or not to approve the access from the information of a data manager, a kind of access, a band state of the network and a band state of an interface of the recording medium apparatus, and to secure a transmission band for accessing the data, when the access is approved, as required in each of independent claims 1, 2, 40 and 41. Accordingly, it is

respectfully submitted that the combination of the teachings of He in view of Day additionally fails to teach that which is required in independent claims 1, 2, 40 and 41.

In light of the above discussion, it is respectfully submitted that claims 1, 2 and 7-41 are patentable over the combination of He in view of Day within the meaning of 35 U.S.C. § 103.

It is respectfully submitted that Peters et al. (Peters) fails to teach the shortcomings of He and Day such that a combination of the teachings of He, Day and Peters would teach that which is required in independent claims 1, 2, 40 and 41.

As discussed in paragraph 27 of the Office Action, Peters is relied upon for allegedly teaching “a system (abstract) that a predetermined node or said data management means (Fig. 1, 42) manages data management information on said data separately from said data (Fig. 1, 49;) thereby to allow deletion of only the data management information when said predetermined node deletes said data (Fig. 7 and 8).”

While not addressing the accuracy of the alleged teachings of Peters, it is respectfully submitted that Peters fails to teach an access manager operable to judge a band state of a network, as required in each of independent claims 1, 2, 40 and 41, and dependent claims 7-39.


Because neither He, Day nor Peters teaches an access manager operable to manage access to the data of said recording medium apparatus, said access manager being operable to judge whether or not to approve the access from the information of said data manager, kind of access, band state of the network and band state of an interface of said recording medium apparatus, and to secure a transmission band for accessing the data, when the access is approved, as required in each of independent claims 1, 2, 40 and 41, it is respectfully submitted that a combination of the teachings of He, Day and Peters additionally fails to teach that which is required in independent claims 1, 2, 40 and 41.

Having fully and completely responded to the Office Action, Applicants submit that all of the claims are now in condition for allowance, an indication of which is respectfully solicited.

If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

Respectfully submitted,

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